

To: "Mack, Karyllan Dodson" [Karyllan.Mack@klgates.com]
Cc: "Monsen, Dawn M." [dawn.monsen@klgates.com]; N=Stephanie Vaughn/OU=R2/O=USEPA/C=US@EPA;"Hyatt, Jr., William" [william.hyatt@klgates.com]; Hyatt, Jr., William" [william.hyatt@klgates.com]
Bcc: []
From: CN=Sarah Flanagan/OU=R2/O=USEPA/C=US
Sent: Tue 1/8/2013 4:32:48 PM
Subject: LPRSA - RI/FS Trust - Deficiency in Performance Guarantee
<mailto:Flanagan.Sarah@epamail.epa.gov>
www.klgates.com
<file://www.klgates.com>

Karyllan,

I discussed your email with ERRD and we agree with the proposal outlined in your email below.

We also agree with the proposal to fund the RI/FS Trust in advance of the May due date. Specifically, please confirm that the Group will deposit at least \$2 million by February 15, 2013, and that in the interim, the Group will withdraw the Claim Certificates requesting payment of the 9 invoices submitted on January 4, 2013. The Group can resubmit the Claim Certificates for payment after the Group's February 2013 deposit of additional funds into the Trust. (You don't need to resubmit the invoices, of course.)

Also, FYI, in the event that additional Claim Certificate payment requests submitted before May 2013 would reduce the Trust to an amount below \$1 million, EPA will likely be looking to the Group to make another deposit in advance of the May due date.

With that said, if the Group submits a proposal for a revised Performance Guarantee with an attached amendment to the Trust Agreement, we will promptly approve it.

Thanks

Sarah

Sarah P. Flanagan
Office of Regional Counsel, NJ Superfund Branch
USEPA, Region 2
290 Broadway, 17th Floor
New York, NY 10007
Tel: 212-637-3136
Fax: 212-637-3096

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From: "Mack, Karyllan Dodson" <Karyllan.Mack@klgates.com>
To: Sarah Flanagan/R2/USEPA/US@EPA
Cc: "Monsen, Dawn M." <dawn.monsen@klgates.com>, Stephanie Vaughn/R2/USEPA/US@EPA, "Hyatt, Jr., William" <william.hyatt@klgates.com>
Date: 01/07/2013 09:38 AM
Subject: RE: LPRSA - RI/FS Trust - Deficiency in Performance Guarantee

Sarah -

My apologies. Our numbers reflected that we had more remaining than what was being sent and we'll double-check the numbers. However, in the meantime, we will not send these to US Bank. During the December Group meeting, the Group approved a revised proposal to EPA for the performance guarantee as follows:

- (1) the 2013 payment will be increased from \$7.2M to \$10.2M
- (2) the 2014 payment will be increased from \$4.6M to \$5.6M; and
- (3) the 2015 payment will remain at \$1M.

With respect to the 2013 payment, we will be issuing invoices later this week or early next week and will fund the Trust with payments received in advance of the May due date.

I know I mentioned our intentions but must have failed to follow-up in writing. Again, I apologize for the confusion. Please let us know if you have any questions or wish to discuss.

Karyllan

From: Flanagan.Sarah@epamail.epa.gov [mailto:Flanagan.Sarah@epamail.epa.gov]
Sent: Monday, January 07, 2013 8:28 AM
To: Mack, Karyllan Dodson
Cc: Monsen, Dawn M.; Vaughn.Stephannie@epamail.epa.gov; Hyatt, Jr., William
Subject: LPRSA - RI/FS Trust - Deficiency in Performance Guarantee
Importance: High

Karyllan,

I assume that the CPG is aware that the full amount of the invoices submitted for payment on Friday, January 4, 2013 cannot be paid from the RI/FS trust account. Immediate action is required to rectify this situation. This is particularly worrying to me because we have been discussing the problem for over a month, and because the CPG has had these invoices for over a month, and under the terms of the AOC, should have taken action to increase the amount in the account.

Please contact me as soon as possible to discuss next steps.

Sarah

Sarah P. Flanagan
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From: "Mack, Karyllan Dodson" <Karyllan.Mack@klgates.com>
To: Sarah Flanagan/R2/USEPA/US@EPA, "Monsen, Dawn M." <dawn.monsen@klgates.com>
Cc: Stephanie Vaughn/R2/USEPA/US@EPA, "Hyatt, Jr., William" <william.hyatt@klgates.com>
Date: 12/07/2012 11:36 AM
Subject: RE: LPRSA - RI/FS Trust Invoices

Hi Sarah,

Sorry for not getting back to you sooner. Our current thinking is that, like we have done in the past, we will pre-fund the May 2013 payment. We will issue invoices in January and then will deposit whatever we have collected in advance of May and the balance on the May due date.

Also, we recently received a budget update and it looks like we will be submitting a proposal to you for a revised performance guarantee. We need approval from the Group next Tuesday, but the revised proposal will likely include a bump for the May 2013 payment.

Karyllan

From: Flanagan.Sarah@epamail.epa.gov [mailto:Flanagan.Sarah@epamail.epa.gov]
Sent: Tuesday, December 04, 2012 6:40 PM
To: Monsen, Dawn M.
Cc: Mack, Karyllan Dodson; Vaughn.Stephanie@epamail.epa.gov
Subject: Re: LPRSA - RI/FS Trust Invoices

Dawn,

I can't help but notice that with this round of invoices, the amount in the RI/FS trust account will be perilously low. I can't imagine it will last until May 2013. Am I wrong? What are the CPG's thoughts about this?

Thanks.

-Sarah

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From: "Monsen, Dawn M." <dawn.monsen@klgates.com>
To: Stephanie Vaughn/R2/USEPA/US@EPA, Sarah Flanagan/R2/USEPA/US@EPA
Cc: "Mack, Karyllan Dodson" <Karyllan.Mack@klgates.com>, "Monsen, Dawn M." <dawn.monsen@klgates.com>
Date: 11/30/2012 04:18 PM
Subject: LPRSA - RI/FS Trust Invoices (1 of 4)

Stephanie and Sarah:

Attached please find the following invoices for your review and approval:

1. Windward Environmental invoice no.: 0912 covering September 2012 RI/FS services (Windward labor and expenses only);
2. Windward Environmental invoice no.: 10410 for October 2012 RI/FS services associated with subcontractor services (retained sample storage fees) supporting the Field Sampling Plan Volume 2 2009 Fish Tissue Sampling Survey chargeable to the RI/FS Trust;
3. Windward Environmental invoice no.: 10411 for October 2012 RI/FS services associated with subcontractor services (retained sample storage fees) supporting the Field Sampling Plan Volume 2 2009 Benthic Community Survey chargeable to the RI/FS Trust;
4. Windward Environmental invoice no.: 10412 for October 2012 RI/FS services associated with subcontractor services supporting the 2012 Dissolved Oxygen Monitoring Survey chargeable to the RI/FS Trust;
5. Windward Environmental invoice no.: 10413 for October 2012 RI/FS services associated with subcontractor services supporting the 2012 Background Tissue Sampling Survey chargeable to the RI/FS Trust;
6. Windward Environmental invoice no.: 1012 for October 2012 RI/FS services (Windward labor and expenses only) chargeable to the RI/FS Trust;
7. CH2M Hill invoice no.: 38112022007 covering September 2012 FS services (Targeted Remedy support) chargeable to the RI/FS Trust;
8. CH2M Hill invoice no.: 38112022011 covering September 2012 FS services (Targeted Remedy support) chargeable to the RI/FS Trust;
9. Tierra's CSO Study reimbursement request no.: 14 for June 2012 chargeable to the RI/FS Trust;
10. Tierra's CSO Study reimbursement request no.: 15 for July 2012 chargeable to the RI/FS Trust;
11. Tierra's CSO Study reimbursement request no.: 16 for August 2012 chargeable to the RI/FS Trust;
12. Tierra's CSO Study reimbursement request no.: 17 for September 2012 chargeable to the RI/FS Trust.
13. de maximis, inc. invoice no.: 121712 for RI/FS Project Coordination services provided during September 2012 on the LPRSA (Project #3177). Project #3177B category includes de maximis labor and expenses to manage and maintain the CPG field facility and field equipment transferred to the CPG by EPA that was purchased with the Group's funds;
14. mab.consulting LLC invoice no.: 10574 for RI/FS services provided during October 2012 chargeable to the RI/FS Trust;
15. AECOM Environment invoice no.: 37280948 covering September 2012 RI/FS field work and subcontractor services (field labor) chargeable to the RI/FS Trust;
16. AECOM Environment invoice no.: 37281008 covering September 2012 RI/FS non-field services (office labor) chargeable to the RI/FS Trust; and
17. Moffatt & Nichol invoice no.: 62011 covering July 2012 modeling services chargeable to the RI/FS Trust.

The Windward Environmental, Tierra CSO Study reimbursement requests, AECOM Environment, and the CH2M Hill invoices will be forwarded in separate emails due to their size. In accordance with the Trust Agreement and the attached Claim Certificates, the invoices (along with a copy of this notification to EPA and the Claim Certificates) will be forwarded to the Trust Fund Trustee, U.S. Bank, for payment from the LPRSA RI/FS Trust Fund.

Thanks,
Dawn

Dawn M. Monsen, Esq.
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[attachment "de maximis, inc. INV# 121712 Sept 2012 Trust.pdf" deleted by Sarah Flanagan/R2/USEPA/US]
[attachment "mab.consulting LLC INV# 10575 October 2012.pdf" deleted by Sarah Flanagan/R2/USEPA/US]
[attachment "Moffatt & Nicholl INV# 62011 July 2012 Trust.pdf" deleted by Sarah Flanagan/R2/USEPA/US]
[attachment "NW-#421291-v1-lprsa_-_11_30_12_claim_certificates.PDF" deleted by Sarah Flanagan/R2/USEPA/US]

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